

AMENDED IN SENATE FEBRUARY 20, 2003

Senate Constitutional Amendment

No. 2

Introduced by Senator Torlakson

December 2, 2002

Senate Constitutional Amendment No. 2—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 16 to Article XI thereof, by amending Section 4 of Article XIII A thereof, by amending Section 2 of Article XIII C thereof, and by amending Section 3 of Article XIII D thereof, relating to local development.

LEGISLATIVE COUNSEL'S DIGEST

SCA 2, as amended, Torlakson. Local government: sales taxes: transportation and smart growth planning.

The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of $\frac{2}{3}$ of the voters of the city, county, or special district voting on that tax, and prohibits these entities from imposing an ad valorem tax on real property or a transactions or sales tax on the sale of real property.

This measure would authorize a ~~city, a county, a city and county, a~~ *local transportation authority*, or a regional transportation agency, as defined, with the approval of a majority of its voters voting on the proposition, to impose a special tax for the privilege of selling tangible personal property at retail that it is otherwise authorized to impose, if the tax is imposed exclusively to fund transportation projects and services and smart growth planning, as defined.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

1 WHEREAS, Adequate transportation infrastructure and
2 services are critical to California's prosperity as well as the travel,
3 business, and recreational needs of all Californians; and

4 WHEREAS, California's continued growth will increase the
5 strain on the state's transportation infrastructure, which is already
6 overburdened and inadequately funded to meet current and future
7 needs; and

8 WHEREAS, The California Transportation Commission
9 reported in 1999, pursuant to Senate Resolution 8, that California
10 faces more than \$110 billion in unmet transportation infrastructure
11 needs; and

12 WHEREAS, California's inadequate transportation system has
13 worsened traffic congestion, increased commute times, slowed
14 delivery of goods and services, and increased costs for businesses;
15 and

16 WHEREAS, Eighteen counties in California representing over
17 80 percent of the population have enacted local countywide
18 transportation sales tax measures by a majority vote to fund
19 critically needed highway and public transit needs, the funding
20 from which represents about one-half of all new capital invested
21 in new facilities in the past decade in our state; and

22 WHEREAS, Counties have clearly demonstrated their ability to
23 manage and spend these funds efficiently and effectively to
24 operate and maintain public transit, build high-priority
25 transportation projects, rehabilitate and improve the local street
26 and road network, and accomplish other goals for improving the
27 transportation system; and

28 WHEREAS, In order to ensure that California will be able to
29 meet its current and future transportation and land use planning
30 needs and thereby preserve and enhance the prosperity and daily
31 activities of all Californians, it is necessary to place before the
32 voters this measure to provide the opportunity for voters to choose
33 for themselves the creation of an additional funding source that is
34 dedicated exclusively to the funding of California's local
35 transportation requirements, is administered by ~~cities, counties~~
36 *counties, cities and counties, local transportation authorities*, and
37 regional transportation agencies, and is directly responsive to local
38 transportation needs; and

39 WHEREAS, To prepare for and manage the pressures, related
40 to transportation issues, of continued growth in California, local,



1 regional, and state government authorities have developed “smart
2 growth” policies to better connect housing opportunities with
3 employment centers, reduce commute times, discourage urban
4 sprawl, encourage infill development, and achieve other goals that
5 increase the quality of life for all Californians; and

6 WHEREAS, More than 300 California organizations have
7 called upon California officials to follow smart growth principles
8 in addressing California’s future growth and development,
9 including all of the following:

10 (a) Planning for the future by making government more
11 responsive, effective, and accountable through reforming the
12 system of land use planning and public finance.

13 (b) Promoting prosperous and livable communities by making
14 existing communities vital and healthy places for all residents to
15 live, work, obtain an education, and raise a family.

16 (c) Providing better housing and transportation opportunities
17 by developing efficient transportation alternatives and a range of
18 housing choices affordable to all residents without jeopardizing
19 farmland, open space, and wildlife habitat.

20 (d) Conserving green space and the natural environment by
21 focusing new development in areas planned for growth, while
22 protecting air and water quality and providing green space for
23 recreation, water recharge, and wildlife.

24 (e) Protecting California’s agricultural and forest lands by
25 shielding California’s farm, range, and forest lands from sprawl
26 and the pressure to convert farmland to development; now,
27 therefore, be it

28 *Resolved by the Senate, the Assembly concurring*, That the
29 Legislature of the State of California at its 2003–04 Regular
30 Session commencing on the second day of December 2002,
31 two-thirds of the membership of each house concurring, hereby
32 proposes to the people of the State of California that the
33 Constitution of the State be amended as follows:

34 First—That Section 16 is added to Article XI thereof, to read:

35 SEC. 16. (a) A ~~city~~, a county, a city and county, a *local*
36 *transportation authority*, or a regional transportation agency may,
37 with the approval of a majority of those voters of the jurisdiction
38 voting on the proposition, impose a special tax upon the privilege
39 of selling tangible personal property at retail within that
40 jurisdiction, if both of the following conditions are met:

(1) The tax is imposed exclusively for the purpose of funding transportation projects and services and related smart growth planning.

(2) The ~~city, county, city and county, or the~~ *local transportation authority, or* regional transportation agency is otherwise authorized by law to impose a new tax in the form of a special tax upon the privilege of selling one or more classes of tangible personal property at retail within its jurisdiction.

(b) At least 25 percent of the revenues derived from any tax imposed pursuant to subdivision (a) shall be used for the purpose of funding smart growth planning.

(c) For purposes of this section:

(1) “*Local transportation authority*” means an authority designated pursuant to Division 19 (commencing with Section 180000) of the Public Utilities Code.

(2) “Regional transportation agency” means all of the following:

(A) The Metropolitan Transportation Commission created by Section 66502 of the Government Code, as that statute read on January 1, 2002.

(B) The Los Angeles County Metropolitan Transportation Authority, or any successor to that authority.

(C) The Orange County Transportation Authority.

(D) Any local or regional transportation entity that is designated by statute as a regional transportation agency.

~~(2)~~

(3) “Funding of transportation projects and services” includes the servicing of indebtedness issued for the purpose of funding those transportation projects and services.

~~(3)~~

(4) “Smart growth planning” means land use planning programs that conserve open space, reduce air pollution, and provide housing in close proximity to population and employment centers.

Second—That Section 4 of Article XIII A thereof is amended to read:

~~Section 4.—~~

Sec. 4. Except as provided by Section 16 of Article XI, a city, county, or special district, by a two-thirds vote of its voters voting on the proposition, may impose a special tax within that city,

1 county, or special district, except an ad valorem tax on real
2 property or a transactions tax or sales tax on the sale of real
3 property within that city, county, or special district.

4 Third—That Section 2 of Article XIII C thereof is amended to
5 read:

6 SEC. 2. Notwithstanding any other provision of this
7 Constitution:

8 (a) Any tax imposed by any local government is either a
9 general tax or a special tax. A special purpose district or agency,
10 including a school district, has no authority to levy a general tax.

11 (b) No local government may impose, extend, or increase any
12 general tax unless and until that tax is submitted to the electorate
13 and approved by a majority vote. A general tax is not deemed to
14 have been increased if it is imposed at a rate not higher than the
15 maximum rate so approved. The election required by this
16 subdivision shall be consolidated with a regularly scheduled
17 general election for members of the governing body of the local
18 government, except in cases of emergency declared by a
19 unanimous vote of the governing body.

20 (c) Any general tax imposed, extended, or increased, without
21 voter approval, by any local government on or after January 1,
22 1995, and prior to the effective date of this article, may continue
23 to be imposed only if that general tax is approved by a majority
24 vote of the voters voting in an election on the issue of the
25 imposition, which election shall be held no later than November
26 6, 1996, and in compliance with subdivision (b).

27 (d) Except as provided by Section 16 of Article XI, a local
28 government may not impose, extend, or increase any special tax
29 unless and until that tax is submitted to the electorate and approved
30 by a two-thirds vote. A special tax is not deemed to have been
31 increased if it is imposed at a rate not higher than the maximum rate
32 so approved.

33 Fourth—That Section 3 of Article XIII D thereof is amended to
34 read:

35 SEC. 3. (a) An agency may not assess a tax, assessment, fee,
36 or charge upon any parcel of property or upon any person as an
37 incident of property ownership except:

38 (1) The ad valorem property tax imposed pursuant to Article
39 XIII and Article XIII A.

1 (2) Any special tax receiving a two-thirds vote pursuant to
2 Section 4 of Article XIII A or Section 2 of Article XIII C, or, as
3 applicable, a majority vote pursuant to Section 16 of Article XI.

4 (3) Assessments as provided by this article.

5 (4) Fees or charges for property related services as provided by
6 this article.

7 (b) For purposes of this article, fees for the provision of
8 electrical or gas service are not deemed charges or fees imposed
9 as an incident of property ownership.

